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| 09/856,003      | 05/15/2001  | Etienne Warrin       | 9320.129USWO        | 2341             |

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EXAMINER

EVANISKO, LESLIE J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2854

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/856,003

Applicant(s)

WARRIN ET AL.

Examiner

Leslie J. Evanisko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05-15-2001. ✓
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The oath/declaration filed with the application on May 15, 2001 has not been signed. Additionally, it appears that the priority information on the oath/declaration is incorrect, based upon comments that applicant made with the submission of the foreign priority document, dated February 7, 2002. It is noted that applicant states in the "communication perfecting priority claim under 35 USC 119 that "a corrected Combined Declaration and Power of Attorney will be filed with the missing parts once the notice is received." However, a corrected Declaration could not be located by the Examiner in the application file.

### ***Specification***

2. The abstract of the disclosure is objected to because of the following informalities: The abstract is not a single paragraph and includes improper terminology such as "The invention relates to" and "According to the invention".

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Additionally, the reference to Figure 1b at the bottom of the abstract is also not proper. Appropriate correction and/or clarification is required. See MPEP § 608.01(b).

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to **a single paragraph** on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should **avoid using phrases which can be implied**, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because of the following informalities: The disclosure lacks the appropriate section headings as set forth in 37 CFR 1.77(b) and MPEP 608.01(a).

Appropriate correction and/or clarification is required.

### ***Claim Objections***

5. Claims 1-7 are objected to because of the following informalities:

With respect to claim 1, it is suggested that the term "it" in line 3 be deleted and replaced with the structure to which "it" is referring to insure the claim language is clear in meaning.

Additionally, with respect to claims 2-7, it is suggested that the term "A" at the beginning of each claim be deleted and replaced with --The-- since the printer was previously recited in claim 1.

With respect to claim 3, the term "the line" has no proper antecedent basis since no line of heating components was previously recited. Therefore, it is suggested that the term "the" be deleted and replaced with --a--.

With respect to claim 4, the term "the bearings" has no proper antecedent basis since no bearings were previously recited in the claims. Therefore, to correct this problem, it is suggested that the term "the" be deleted.

With respect to claim 5, the term "said bearings" has no proper antecedent basis since the bearings were previously recited in claim 4 and claim 5 is dependent upon claim 1. Therefore, it is suggested that claim 5 be amended to depend upon claim 4.

With respect to claim 6, again it is suggested that the term "it" be deleted and replaced with the actual structure to which "it" is referring.

With respect to claim 7, the terms "said bearings" and "the axis of said motor driven roller" in line 3 have no proper antecedent basis, since the bearings were previously recited in claim 5 and the axis of the roller was previously recited in claim 3 and claim 7 depends upon claim 6 which depends upon claim 1.

Appropriate correction and/or clarification is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the claims are inconsistent with what is shown in the drawings, making the exact scope of the claims somewhat confusing. In particular, the drawings do not specifically support the idea that the roller is moveable along a substantially *vertical* axis as claimed, since the figures seem to show the roller is moveable along a *horizontal* axis (See Figure 5-6 in particular) as the paper is inserted between the printhead and platen. It is noted, however, that the description states that the guide plate 15 is oriented in a substantially horizontal way (see page 5, lines 6-7), which is also not properly shown in the Figures, since guide plate 15 appears to be vertically oriented as shown in Figure 1b. If the guide plate is intended to be oriented horizontally as stated in the specification, then the platen roller would be moveable along a vertical axis as recited. Therefore, it appears that the drawing labels were improperly placed on the drawings of the present application and thereby all of the drawings are improperly oriented. It appears from the claims and description in the specification that the Z-axis in the drawing Figures should be oriented vertically. This is further supported by the

Figures in the foreign priority document, received February 7, 2002, which show the drawings in an orientation that is consistent with the rest of the disclosure.

In an effort to advance prosecution of the application, the Examiner has assumed that the drawings were mislabeled and the claims are correct in that the roller is movable along a vertical axis as recited.

However, appropriate correction and/or clarification is required.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the

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applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hongo et al. (US 5,212,499) in view of Thiel et al. (US 5,648,811). Hongo et al. teach a thermal printer comprising a printing head 1 and a motor driven roller 6 that is mobile with respect to the printing head along a substantially vertical axis, so that the gap between the roller and printing head is able to vary depending upon the thickness of the object to be printed. See Figures 1-3 and columns 2-4 in particular. Although Hongo et al. is silent with respect to whether the motor driven roller is able to drive a flat object to be printed under the printing head as recited (since it only clearly describes a motor driven rectilinear movement of the platen towards and away from the printhead), note Thiel et al. teach a thermal printer arrangement including having a motor driven roller for driving an object to be printed under the printing head (see column 11, lines 35-41 in particular) is well known in the art. In view of this teaching, it would have been obvious to one of ordinary skill in the art to allow the motor driven roller of Hongo et al. to transport the object to be printed as taught by Thiel et al. to provide a simplified device for transporting different thickness printing objects through the printer.



With respect to claim 2, note the printing head of Hongo et al. is fixed as set forth in column 2, lines 42-44.

With respect to claim 3, note the axis of rotation of the roller 6 of Hongo et al. is “substantially” located at the vertical of a line of heating components borne by the printing head 1, as shown in Figures 2-3. Note the thermal head of Hongo et al. would inherently include a line of heating components as recited.

With respect to claim 4, note the bearings 8 supporting the motor driven roller 6 are coupled with elastic spring means 12, as shown in Figures 1 and 2 of Hongo et al. in particular.

With respect to claim 5, note the bearings 8 are securely fixed to a “feed plate” 10 as broadly recited by applicant.

With respect to claims 6-7, note the printer of Hongo et al. includes means for providing a predetermined gap including at least a stop fixed to the bearings of the axis of the roller, as described in column 4, lines 17-23 and 41-45.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nagai et al. (US 6,386,770), Honma et al. (JP 58-155970, Sato (JP 2002-283631), Yoshitomi (JP 61-225077), and Nishio (JP 11-


78139) each teach a thermal printer arrangement having obvious similarities to the claimed subject matter.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on M-Th 7:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lje  
November 14, 2004

  
Leslie J. Evanisko  
Primary Examiner  
Art Unit 2854